

Chapter Bkg 80

WISCONSIN CONSUMER ACT RULES

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Bkg 80.01 Wisconsin consumer act rules; organization. In order to facilitate the organization of rules promulgated under the Wisconsin consumer act and to assist interested persons in relating the rules to the act, each rule shall refer to specific sections of the act. The

rules shall be published so as to retain the numerical order of the sections of the act to which they refer. However, each statutory reference does not constitute the sole statutory authority for any particular rule.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.05 General definitions; consumer credit transactions. Acquisition of a leasehold interest in real property by a customer from a merchant is not a consumer lease within the meaning of section 421.301 (11) Wis. Stats. For laws governing the leasing of real estate see chapter 704, Wis. Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.06 General definitions; customer. A person seeks or acquires real or personal property, services, money or credit for personal, family, household or agricultural purposes within the meaning of section 421.301 (17) Wis. Stats. when such real or personal property, services, money or credit is to be used primarily, that is 50% or more, for one or more of these purposes.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.07 General definitions; finance charge. A delinquency or default charge is not a finance charge within the meaning of section 421.301 (20), Wis. Stats. if imposed for actual unanticipated late payment, delinquency, default or other such occurrence. However, when a merchant's billings are not paid in full within a stipulated time period and under such circumstances the merchant does not, in fact, regard such accounts in default (For example, by customarily failing to institute collection activity or by continuing to extend credit) and imposes charges periodically for delaying payment of such accounts from time to time until paid, the charge so imposed comes within the definition of a finance charge and the credit so extended comes within the definition of open-end credit.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.08 General definitions; official fees. Official fees within the meaning of section 421.301 (26) (a), Wis. Stats., shall include any fee charged by a register of deeds or the secretary of state for the filing or recording of any instrument of conveyance or other document for the purpose of perfecting a security interest for which the parties have contracted. See also Wis. Adm. code section 80.352.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.09 General definitions; required deposit balance. The definition of "required deposit balance" in section 421.301 (38), Wis. Stats., together with the definition of "amount financed" requires that the required deposit balance be deducted from the amount financed for the purpose of calculating the finance charge and making disclosures. The purpose is to accurately disclose to the customer the amount of funds or credit of which he will have actual use, and thus the creditor is required to deduct from the funds advanced any compensating balance the creditor requires to be maintained with him. Consequently, the term does not apply to a deposit balance or deposit investment maintained by the customer with a financial institution other than the creditor, which is taken by the creditor as collateral for the advance made. The reference to "any investment"

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refers to deposit-type investments such as "share accounts" maintained with savings and loan associations, credit unions or mutual savings banks. The term "investment" in section 421.301 (38), Wis. Stats., does not include investment securities of the type defined in chapter 408, Wis. Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.201 Finance charge for consumer credit transactions; per diem charge. Charges under section 422.201, Wis. Stats., on consumer transactions other than those pursuant to an open-end plan where the finance charge is computed on the declining unpaid principal balance from time to time outstanding may be computed on actual unpaid balances at $1/360$ th of the annual rate for the actual number of days outstanding provided the use of this method shall be disclosed conspicuously together with all other disclosures required by subchapter III of chapter 422, Wis. Stats., and provided the finance charge obtained by the application of this method does not exceed the maximum charge permissible under the act.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.210 Finance charge for consumer credit transactions; maximum rates under section 422.201 (3), Wis. Stats. The maximum discount rate on loans in which the principal (exclusive of interest) does not exceed \$3,000 is $9\frac{1}{2}\%$ per year on that part of the face amount of the note (total of payments) not exceeding \$1,000 and 8% per year on any remainder of the face amount. Discount loans may be made for any number of whole months (excluding any irregular first instalment period) up to the maximum maturity, e.g. loans of 6, 17, 24, etc. months are permitted. On contracts for periods which are less or greater than one year, or which are not a multiple of one year, the discount rate shall be computed proportionately ($1/2$ of the annual discount rate) for each month. See section 138.09 (7) (b) 1, Wis. Stats. Example: Total of payments = \$1345.20 ($24 \times \56.05); Interest (Finance charge) = \$245.23 ($9\frac{1}{2}\% \times 2 \text{ yrs.} \times \$1,000$ plus $8\% \times 2 \text{ yrs.} \times \345.20); Amount Financed = \$1,099.97 ($\$1345.20 - \245.23).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.22 Finance charge for consumer credit transaction; credit cards and coupon books. With respect to a consumer credit transaction involving the receipt or acceptance by a customer of any credit card, plate, merchandise certificate, letter of credit, coupon book or other like credit device, except gift certificates purchased by a customer for use by a person other than the customer, the unpaid balance in such transaction within the meaning of section 422.201, Wis. Stats., shall include only the cash value of any money, property, labor or services, not including the credit device itself, acquired by the actual use or redemption of such credit device together with authorized additional charges. For example, where a customer receives a coupon book or several merchandise certificates in the amount of \$200 and subsequently redeems one coupon or certificate in the amount of \$25, the customer's unpaid balance upon which a finance charge may be assessed is limited to the \$25 cash value of the goods or services which the customer has actually received. This rule shall not apply to merchandise certificates acquired by a customer pursuant to an open end plan if:

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(1) Acquisition of certificates is not a condition of the extension of credit to the customer,

(2) Unused certificates may be returned at any time for full credit to the customer's account,

(3) The acquisition cost is not billed to the customer for at least one month, and does not bear a finance charge for a minimum period of 2 months, after the certificate is acquired, and

(4) The customer is given notice, at least 15 days prior to the imposition of a finance charge, of the date by which any unused certificates must be returned to avoid imposition of finance charges on the price thereof.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.221 Finance charge for consumer credit transactions; actuarial method-compounding. The term "actuarial method" as used in section 422.201, Wis. Stats., shall mean the method by which that portion of each payment not applicable to an escrow account is applied first to any finance charge or permitted additional charge accrued from the time of any prior payment or from the time credit is extended and the remainder, if any, is applied to the unpaid amount financed. With the exception of the calculation of delinquency charges, amounts remitted may be applied to interest and charges and then to principal on the most delinquent instalment due and then to interest and charges on the next instalment proceeding to more current installments until the amount remitted is exhausted. For purposes of computing the finance charge under subsection 422.201 (9), a merchant may calculate the finance charge on an unpaid balance which includes unpaid finance charges.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.23 Maximum charges; precision and rounding. When preparing charts and tables, programming electronic devices or performing numerical calculations in connection with sections 422.201, 422.204, and 422.209, Wis. Stats., any number of decimal places may be used to express the multiplying factor, provided that such factor shall be carried out at least to the nearest ten-thousandth or if expressed as a per cent to the nearest one-hundredth of a percent. Where the number of decimal places used exceeds the minimum, the final digit may be rounded. In any case, the same multiplier must be used consistently with regard to all calculations in the transaction, including computation of interest, deferrals or rebates. Where the multiplier complies with this rule, the final product may be rounded to the nearest cent provided that products of 5 mills and over shall be rounded upward.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.231 Finance charge for consumer credit transactions; rate for licensees. Section 422.201 (3), Wis. Stats., refers to sections 138.09 and 218.01, Wis. Stats., for the determination of finance charges under the Wisconsin consumer act receivable by licensees. The language of sections 138.09 (7) and 218.01 (6) with respect to finance charges receivable by licensees is both comprehensive and preemptive. Therefore, although these sections provide for finance charges which, in various situations, are less than or greater than

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those permitted by section 422.201 (2), licensees under section 218.01 with respect to the sale of motor vehicles, and licensees under section 138.09 with respect to any loan are limited in each case by section 422.201 (3) to that finance charge receivable according to the applicable provisions of the appropriate licensing act, except as the election to receive a minimum finance charge is limited by section 422.201 (8).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.24 Finance charge for consumer credit transactions; rate on sale of farm equipment. Section 422.201 (4), Wis. Stats., refers to the class 2 rate for motor vehicles, as specified in section 218.01 (6) for determination of the maximum finance charges in consumer credit transactions other than those pursuant to an open-end plan receivable by sellers of farm equipment, farm implements and farm tractors, other than section 218.01 licensees, under the Wisconsin consumer act. As section 422.201 (4) contemplates finance charges which, in various situations, are less than or greater than those permitted by section 422.201 (2), sellers within section 422.201 (4) are limited in the sale of farm equipment, farm implements and farm tractors to the finance charge receivable according to the class 2 rate in section 218.01 (6). See section 422.201 (8) for election to receive a minimum finance charge. On sales of other goods and services by such sellers the rates described in section 422.201 (2) or (3) will apply, as appropriate. Licensees under section 218.01 shall apply the rates set out in section 218.01 (6) to the sale of all motor vehicles, but shall be limited to the class 2 rate in section 218.01 (6) as to the sale of all other farm equipment and implements.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.241 Finance charges for consumer credit transactions; minimum finance charge. Section 422.201 (8) provides for the election of a minimum finance charge by any merchant, including licensees under section 218.01, who are limited to the election provided by this section notwithstanding the minimum time price differential provisions of section 218.01 (6) (a) 6.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.25 Open end credit; maximum periodic rate; licensed lenders. For licensees under section 138.09, Stats., with respect to consumer credit transactions pursuant to an open end credit plan, the maximum periodic rate is 1.5% per month applied to the balance subject to the finance charge. The balance subject to the finance charge shall be calculated in accordance with section 422.201 (9) (a) Stats.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78.

Bkg 80.26 Additional charges; cost of insurance. Disclosure of the cost of insurance as required by section 422.202 (1) (c) must include written notice to the customer of the term of such insurance and the dollar charge for such term. Where the term of the insurance is the same as the term of the transaction a disclosure of the fact shall be an adequate disclosure of the term of such insurance.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.261 Additional charges; equivalent security interest. The term "equivalent security interest" as used in section 422.202 (2)

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(b) shall include a seller's interest under a land contract or a first lien deed of trust, and a second mortgage where there are no intervening liens and the mortgagee holds the first mortgage on the subject property. For cross reference application of this definition, see also sections 422.303 (4), 422.306 (2), 422.408 (6), 422.409 (2) and 422.411 (2), Wis. Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.262 Additional charges; title examinations. Title examinations within the meaning of section 422.202 (2) (b) 1 of the act shall include the fee for a written title opinion prepared by an attorney upon examination of the abstract of title to the real property which is the subject of the consumer credit transaction on which the charge is assessed.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.27 Additional charges; substantial improvement of real property. The term "substantial improvement of real property" as used in section 422.202 (2) (b) shall mean any improvement to real property, the cash price of which shall be at least \$1,400.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.271 Delinquency charges; deferred instalment. Where the parties have agreed to a delinquency charge in accordance with section 422.203 and instalments have subsequently been deferred, the merchant may collect a delinquency charge on any deferred instalment which is not paid in full on or before the 10th day after its deferred due date unless such instalment is again deferred.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg. 80.28 Deferral charges; unilateral deferral at no cost. Notwithstanding section 422.204, Wis. Stats., any number of the instalments may be deferred unilaterally by the creditor without the notice that would otherwise be required provided there is no charge for such deferral.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.281 Deferral charges; alternative computation. The methods for computing deferral charges described in sub. 422.204 (1) (a) and (b), Wis. Stats., are alternatives and a creditor may elect to use either method to the extent that he can apply it to the particular transaction. However, if the transaction is not one to which sub. (1) (a) could apply, for example, because of irregular payments, then the creditor must compute the deferral pursuant to sub. (1) (b).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.29 Deferral charges; "Rule of 78". The portion of the precomputed finance charge attributable to the final instalment of the original schedule of payments as used in section 422.204 (1) (a), Wis. Stats., shall mean the pre-payment rebate calculated according to the Rule of 78 if the contract were prepaid in full on the payment date immediately preceding final originally scheduled maturity.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.30 Advances to perform agreement of customer; notice. Written notice of non-performance by a customer pursuant to section Register, December, 1977, No. 264

422.207 shall be by personal delivery of such notice to the customer or by mailing such notice by regular, registered or certified mail to the customer's last known address. Where notice is by mail, notice shall

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